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IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

RYAN DALEY, an individual, on)	
behalf of himself and all others)	Case No.:
similarly situated,)	
)	COMPLAINT
Plaintiff,)	
)	(JURY DEMANDED)
vs.)	
)	
AVENUE5 RESIDENTIAL LLC, a)	
Delaware corporation,)	
)	
Defendant.)	

Plaintiff Ryan Daley, on behalf of himself and all others similarly situated, by and through his attorney, Kirk D. Miller of *Kirk D. Miller, P.S.*, allege the following:

I. COMPLAINT

1.1 This is an action for damages and remedies against AVENUE5 RESIDENTIAL LLC ("Avenue5"), pursuant to the Washington Residential Landlord-Tenant Act (RCW 59.18, *et seq.*)

II. JURISDICTION & VENUE

2.1 Jurisdiction of this Court arises under 28 U.S.C. § 1332.

2.2 Defendant is a citizen of Delaware State.

2.3 Plaintiff is a citizen of Washington State.

2.4 The matter in controversy is a putative class action which exceeds the sum or value of seventy-five thousand dollars (\$75,000.00), exclusive of interest and costs.

2.5 Declaratory relief is available pursuant to 28 U.S.C. §§ 2201 and 2202.

2.6 Venue is proper in this District under 28 U.S.C. § 1391(b) because the Defendant conducts affairs and transacts business in this District, and the unlawful acts giving rise to this Complaint occurred in this District.

III. PARTIES

3.1 At all relevant times, Plaintiff Daley was a resident of the state of Washington, residing within the territorial jurisdiction area of the United States District Court for the Eastern District of Washington.

3.2 Defendant Avenue5 is a Delaware corporation primarily engaged in the business of managing rental properties in Washington State and elsewhere.

1 3.3 Defendant and its related, parent, and subsidiary corporations are a
2 provider of services to residents, property owners, and investors in the
3 multifamily real estate industry.

4 3.4 Defendant is an owner, lessor, sublessor, or the designated
5 representative of the owner, lessor, or sublessor, or an agent, resident
6 manager, or a designated property manager for multiple dwelling units,
7 or properties of which one or more dwelling units are a part, throughout
8 the state of Washington and elsewhere.

9 3.5 Defendant is a “Landlord” as defined by RCW 59.18.030(14).

10 IV. FACTS

11 4.1 In 2018, Plaintiff Daley applied to rent a unit at the River House
12 apartment complex, located on East Indiana Avenue in Spokane,
13 Washington.

14 4.2 The River House apartments are owned or managed by Defendant
15 Avenue5.

16 4.3 Defendant obtains a tenant screening report on all prospective
17 Washington tenants, who are over the age of eighteen, including
18 Plaintiffs.

1 4.4 All prospective tenants in the state of Washington, who are over the age
2 of eighteen, are required to pay a tenant screening fee prior to renting a
3 unit at any property Defendant owns or manages.

4 4.5 Defendant utilizes web-based Yardi Systems, Inc. with website design
5 by RENTCafé® to facilitate all online applications and tenant screening
6 reports.

7 4.6 Defendant uses consumer reports to screen prospective tenants.

8 4.7 Prior to a prospective tenant being charged for a tenant screening fee,
9 Defendant, either directly or through a Yardi Systems, Inc. website,
10 provides standardized disclosures to all prospective tenants.

11 4.8 The tenant screening fee is non-refundable.

12 4.9 Defendant does not obtain consumer reports on prospective
13 Washington tenants from more than one consumer reporting agency.

14 4.10 Defendant obtains consumer reports from Yardi Systems, Inc., which
15 compiles consumer information obtained from other sources.

16 4.11 Defendant only obtained a consumer report from Yardi Systems, Inc.
17 when deciding whether to accept Plaintiff's application.

18 4.12 Prior to obtaining information about a prospective tenant, Defendant
19 does not provide any written or posted notice to prospective tenants
20

1 regarding the name of the consumer reporting agency from which
2 information will be obtained.

3 4.13 Prior to obtaining information about a prospective tenant, Defendant
4 does not provide any written or posted notice to prospective tenants
5 regarding the address of the consumer reporting agency from which
6 information will be obtained.

7 4.14 Prior to obtaining information about a prospective tenant, Defendant
8 does not provide any written or posted notice to prospective tenants
9 regarding the prospective tenant's rights to obtain a free copy of the
10 consumer report in the event of a denial or other adverse action.

11 4.15 Prior to obtaining information about a prospective tenant, Defendant
12 does not provide any written or posted notice to prospective tenants
13 regarding the prospective tenant's right to dispute the accuracy of
14 information appearing in the consumer report.

15 4.16 After the screening is complete, prospective tenants are unable to find
16 out through any medium which consumer reporting agency provided
17 information to Defendant unless the rental application is denied or
18 conditionally approved by Defendant.

19 4.17 For any prospective tenant, information contained in various consumer
20 reports may be different.

1 4.18 Defendant failed to provide the above-described disclosures to Plaintiff
2 and to all members of the putative class.

3 V. VIOLATIONS OF WASHINGTON'S RESIDENTIAL
4 LANDLORD-TENANT ACT (RLTA), RCW 59.18, *ET SEQ.*

5 5.1 In 2012, the Washington legislature found the following with respect to
6 landlords' use of tenant screening reports:

7 The legislature finds that residential landlords frequently
8 use tenant screening reports in evaluating and selecting
9 tenants for their rental properties. These tenant screening
10 reports purchased from tenant screening companies may
11 contain misleading, incomplete, or inaccurate information,
12 such as information relating to eviction or other court
13 records. It is challenging for tenants to dispute errors until
14 after they apply for housing and are turned down, at which
15 point lodging disputes are seldom worthwhile. The costs
16 of tenant screening reports are paid by applicants.
17 Therefore, applicants who apply for housing with multiple
18 housing providers pay repeated screening fees for
19 successive reports containing essentially the same
20 information.

21 5.2 Prior to the tenant being charged any fee for a tenant screening report,
Defendant was, at all times relevant to this action, required by RCW
59.18.257 to provide the name and address of the consumer reporting
agency from which it will obtain information about the prospective
tenant.

5.3 Prospective tenants may decide where they will apply to rent based on
which consumer report will be used for screening.

1 5.4 A prospective tenant who knows that derogatory information exists on
2 one consumer report may choose not to waste the screening fee if
3 another landlord utilizes the same report.

4 5.5 Alternatively, a prospective tenant may choose to apply with a
5 prospective landlord because the prospective tenant knows that a
6 particular consumer report contains no derogatory information.

7 5.6 Defendant's practice of failing to provide its source(s) of consumer
8 information, prior to obtaining the prospective tenants' consumer
9 information, frustrates a prospective tenant's ability to make informed
10 decisions regarding where to apply for rental housing.

11 5.7 Defendant's practice of failing to disclose the name and address of the
12 consumer reporting agency from which Defendant obtains information
13 pertaining to prospective tenants violates RCW 59.18.257(1)(a)(iii).

14 5.8 Defendant's practice of failing to disclose that the prospective tenant
15 may obtain a free copy of the consumer report in the event of a denial
16 or other adverse action violates RCW 59.18.257(1)(a)(iii).

17 5.9 Defendant's practice of failing to disclose to prospective tenants their
18 right to dispute the accuracy of information appearing in the consumer
19 report violates RCW 59.18.257(1)(a)(iii).

6.2 Defendant benefitted from receiving consumer reports and other useful information as a result of the prospective tenants paying the tenant screening fee.

6.3 Defendant was unjustly enriched by receiving the reports paid for by prospective tenants.

6.4 The value of the reports and information obtained by Defendant on each prospective tenant is equal to the amount paid by each tenant.

6.5 Defendant should not be allowed to retain the value it received via the illegal charges paid by the prospective tenants.

VII. CLASS ALLEGATIONS

This action is brought on behalf of a class consisting of:

7.1 All persons;

7.2 Who applied to rent any property in Washington State;

7.3 Where the rental property, on the date of the application, was owned or managed by Defendant Avenue5, or where Defendant Avenue5 was a “landlord” of the property, as defined by RCW 59.18.030(14);

7.4 Who paid any tenant screening fee to Defendant or its affiliates.

7.5 For violations related to Defendant’s failure to provide the required consumer reporting agency information, the right to dispute the accuracy of the consumer report, or the failure to disclose the tenants’

1 right to receive a free copy of the report, the class period is three years
2 prior to filing of this action, through the date that the class is certified;

3 7.6 Plaintiffs have the same claims as the members of the class. All of the
4 claims are based on the same factual and legal theories.

5 7.7 Plaintiff will fairly and adequately represent the interests of the class
6 members. He is committed to vigorously litigating this matter.

7 7.8 Neither Plaintiffs nor their counsel have any interests which might
8 cause them not to vigorously pursue this claim.

9 7.9 A class action is a superior method for the fair and efficient adjudication
10 of this controversy.

11 7.10 Class-wide damages are essential to induce Defendant to comply with
12 the law.

13 7.11 The interests of the class members in individually controlling the
14 presentation of separate claims against the Defendants is small, because
15 the amount of damages recoverable in an individual case under RCW
16 59.18.257 is relatively small.

17 7.12 Certification of a class pursuant to Fed. R. Civ. Pro 23(b)(3) is
18 appropriate. A class action is the only appropriate means of resolving
19 this controversy because the class members are not aware of their
20 rights, the class is comprised of a largely vulnerable population, and the

1 amount of available damages for many of the class members may be
2 relatively small. In the absence of a class action, a failure of justice will
3 result.

4 7.13 Certification of a class pursuant to Fed. R. Civ. Pro. 23(b)(2) is also
5 appropriate. Defendants acted on grounds generally applicable to the
6 class, making declaratory relief appropriate with respect to the class as
7 a whole.

8 VIII. DEMAND

9 WHEREFORE, Plaintiff demands judgment as follows:

10 8.1 Actual damages in the amount paid for tenant screening by each
11 prospective tenant class member;

12 8.2 Statutory damages of one hundred dollars (\$100) per prospective
13 tenant, pursuant to RCW 59.18.257(3);

14 8.3 Costs and reasonable attorney's fees pursuant to RCW 59.18.257(3);

15 8.4 Pre-judgment interest on all amounts paid by prospective tenants for
16 tenant screening fees;

17 8.5 Post-judgment interest;

18 8.6 Declaratory judgment that Defendant's practices violate Washington's
19 Residential Landlord-Tenant Act (RCW 59.18, et seq.); and

20 8.7 Such other and further relief as may be just and proper.

1 DATED this 13th day of December, 2018.

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3 *Kirk D. Miller, P.S.*

4 /s Kirk D. Miller
5 Kirk D. Miller, WSBA #40025
6 Attorney for Plaintiff
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